

ESTTA Tracking number: **ESTTA666141**Filing date: **04/10/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Canadian Women's Hockey League, LLC d/b/a CWHL, et al.		
Entity	Limited Liability Company	Citizenship	United States and Canada
Address	734 Srigley Street Newmarket, ONT L3Y 1X5 CANADA		

Attorney information	Michael Drews Campbell Killin Brittan & Ray, LLC 270 Saint Paul Street Suite 200 Denver, CO 80206 UNITED STATES mdrews@ckbrlaw.com Phone:(303) 394-7209
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Applicant Information

Application No	86415836	Publication date	03/24/2015
Opposition Filing Date	04/10/2015	Opposition Period Ends	04/23/2015
Applicant	Digit Murphy Enterprises Inc. c/o Natter & Natter New York, NY 10017 UNITED STATES		

Goods/Services Affected by Opposition


Class 041. First Use: 2010/00/00 First Use In Commerce: 2010/00/00
All goods and services in the class are opposed, namely: Entertainment in the nature of hockey games


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Improper/Fraudulent Filing: 15 U.S.C. Â§ 1051(a)(1) Improper/Fraudulent Filing: 15 U.S.C. Â§ 1051(3)(A) Improper/Fraudulent Filing: 15 U.S.C. Â§ 1051(3)(B) Improper/Fraudulent Filing: 15 U.S.C. Â§ 1051(3)(D)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86570515	Application Date	03/19/2015
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	BOSTON BLADES		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 2010/11/30 First Use In Commerce: 2010/11/30 Clothing, namely, Clothing, namely, bandanas, beach cover-ups, belts, body suits, boxer shorts, caps, cloth bibs, coats, dresses, footwear, ear muffs, gloves, hats, headbands, hosiery, housecoats, jackets, jerseys, leggings, leotards, mittens, nightshirts, pajamas, pants, rain coats, rain wear, robes, scarves, shirts, shorts, skirts, socks, suits, sun visors, suspenders, sweaters, sweatpants, sweatshirts, swimsuits, swim trunks, t-shirts, ties, toques, underwear, vests, warm-up suits and wristbands</p> <p>Class 041. First use: First Use: 2010/11/30 First Use In Commerce: 2010/11/30 Entertainment in the nature of hockey games</p>		

U.S. Application No.	86570564	Application Date	03/19/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BOSTON BLADES		
Design Mark			
Description of Mark	<p>The mark consists of the word "BOSTON" with the letter "B" appearing in larger font. To the right of the letter "B" in "BOSTON" and aligned beneath the first letter "O" and "N" in "BOSTON" appears the word "BLADES" in smaller font. To the right of the letter "B" and entirely beneath the word "BLADES" appears a hockey stick, with the blade portion of the stick slanting upwards after the letter "S" in "BLADES" and the letter "N" in "BOSTON".</p>		
Goods/Services	<p>Class 025. First use: First Use: 2010/11/30 First Use In Commerce: 2010/11/30 Clothing, namely, Clothing, namely, bandanas, beach cover-ups, belts, body suits, boxer shorts, caps, cloth bibs, coats, dresses, footwear, ear muffs, gloves,</p>		

	hats, headbands, hosiery, housecoats, jackets, jerseys, leggings, leotards, mittens, nightshirts, pajamas, pants, rain coats, rain wear, robes, scarves, shirts, shorts, skirts, socks, suits, sun visors, suspenders, sweaters, sweatpants, sweatshirts, swimsuits, swim trunks, t-shirts, ties, toques, underwear, vests, warm-up suits and wristbands Class 041. First use: First Use: 2010/11/30 First Use In Commerce: 2010/11/30 Entertainment in the nature of hockey games
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Attachments	86570515#TMSN.png(bytes) 86570564#TMSN.png(bytes) 00104001.PDF(363738 bytes) 00103951.PDF(5102493 bytes) 00103943.PDF(1299116 bytes) 00103944.PDF(1914985 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael D. Drews/
Name	Michael Drews
Date	04/10/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**CANADIAN ASSOCIATION FOR THE)
ADVANCEMENT OF AMATEUR WOMEN’S)
HOCKEY d/b/a CANADIAN WOMEN’S)
HOCKEY LEAGUE and CANADIAN)
WOMEN’S HOCKEY LEAGUE, LLC)
d/b/a CWHL,)**

Opposer,)

v.)

DIGIT MURPHY ENTERPRISES, INC.)

Applicant,)

Opposition No:
Serial No.: 86415836
Mark: Boston Blades & Design
Filing Date: October 6, 2014
Publishing Date: March 24, 2015

NOTICE OF OPPOSITION

Canadian Women’s Hockey League, LLC d/b/a CWHL, is a limited liability company organized under the laws of the State of Colorado, with its principal place of business at 734 Srigley Street, Newmarket, Ontario, Canada L3Y 1X5. The CWHL was first founded in Canada as the Canadian Association for the Advancement of Amateur Women’s Hockey d/b/a Canadian Women’s Hockey League (or CWHL), a not-for-profit corporation organized under the laws of Canada, also having its principal place of business at 734 Srigley Street, Newmarket, Ontario L3Y 1X5 (collectively, “Opposer” or “CWHL”). The CWHL believes it will be damaged by registration of the mark shown in Application Serial No.: 86415836, for “entertainment in the nature of hockey games” in International Class 41 and U.S. Classes 100, 101 and 107 (the “Application”), filed by Digit Murphy Enterprises, Inc. (“Applicant”) and hereby opposes registration thereof.

As grounds for its opposition, Opposer alleges, upon actual knowledge with respect to itself and its own actions and upon information and belief as to other matters, as follows:

1. The CWHL was created in May of 2007 following the dissolution of the National Women's Hockey League (NWHL).

2. The CWHL has been continuously doing business in Canada since 2007 and has been continuously doing business in the United States since 2010, when the CWHL founded its Boston Blades team.

3. The CWHL has duly filed with the Secretary of State of the State of Massachusetts a Foreign Limited Liability Company Application for Registration, which authorizes the CWHL to do business within Massachusetts. Additionally, the CWHL has duly filed with the Secretary of State of the State of Massachusetts a Foreign Limited Liability Company Application for Registration, which authorizes Boston Blades, LLC, a Colorado limited liability company wholly owned and operated by the CWHL, to do business within Massachusetts.

4. The CWHL is currently the only major women's ice hockey league in Canada and the United States and is the premier major women's hockey league, drawing the world's elite players to its teams. The CWHL currently has five (5) competing women's ice hockey teams: two in Ontario, Canada (the "Toronto Furies" and the "Brampton Thunder"); one in Quebec, Canada (the "Stars of Montreal"); one in Alberta, Canada (the "Calgary Inferno") and one in Boston, Massachusetts, United States (the "Boston Blades").

5. The CWHL is distinct from other professional sports leagues, in that, it was founded upon and continues to operate with a centralized vision. That is, the CWHL generates its operating revenue from ticket sales, consumer apparel, sponsorship, and fundraising activities of its five (5) teams. The CWHL pays for its teams' basic travel and accommodations, ice rental, uniforms and equipment expenses. Moreover, the CWHL prints apparel with all of its teams' names and logos through agreements with vendors for sale at games and on the CWHL website, which provides

links to its teams' individual websites. All of the individual teams' websites are owned, operated and controlled by the CWHL¹.

6. The Boston Blades expansion team – the first CWHL team to be based in and compete against other CWHL teams in the United States and the subject of the Application and this Opposition – was conceived of and founded on April 1, 2010 by the CWHL. Subsequently, the Boston Blades began competing in the CWHL during the 2010-2011 season.

7. The name, “Boston Blades” (“Opposer’s Word Mark”), was conceived of and first used by the CWHL on April 1, 2010 (“Opposer’s First Word Mark Use Date”).

8. The Boston Blades logo (“Opposer’s Design Mark”), which is the subject of the Application, was submitted to and approved for use by the CWHL on November 30, 2010 (“Opposer’s First Design Mark Use Date”). Mr. Paul Hendrickson (“Mr. Hendrickson”), then the General Manager of the Boston Blades, submitted the Opposer’s Design Mark to the CWHL after it was designed by a volunteer known to Mr. Hendrickson.

9. After submission of the Boston Blades’ Design Mark by Mr. Hendrickson, the CWHL and the Board of Directors approved and adopted the Design Mark for all future use, thereby becoming exclusive intellectual property of the CWHL to be used at the CWHL’s sole discretion.

10. The Opposer’s Word Mark and the Opposer’s Design Mark (collectively, “Opposer’s Marks”) have been exclusively and continuously used by the CWHL from Opposer’s First Word Mark Use Date and Opposer’s First Design Mark Use Date up to and including the present day in the United States, Canada and worldwide.

¹ The website established by the CWHL for its’ Boston Blades team is and has been: <http://boston.cwhl.ca>. The CWHL entered into an agreement with PointStreak, an outside vendor, to provide a platform for statistics maintenance and a web-portal for all five (5) of its teams.

11. Since the inception of the Boston Blades in 2010, the Opposer's Marks have been used continuously in connection with: the CWHL website; the Boston Blades website; hockey equipment worn and/or used by the team; training apparel for the Boston Blades players; consumer apparel made available to fans, including, but not limited to, jerseys, t-shirts, sweatshirts, and hats, as made available at games and through the CWHL website, which provides a link to the Boston Blades website, which, as noted above, is directly owned, operated and controlled by the CWHL; print, television and internet advertising for all games and special events attended by the Boston Blades team; in-game graphics for nationally televised and internationally streamed games; graphics used during sports reporting on local and national sports programs; press releases; news articles; periodical articles; television news; television sports programs; documentaries; social media, including, but not limited to Facebook, Twitter and YouTube; and associated with the CWHL's grassroots efforts to growth women's hockey by way of youth camps and clinics, as well as other community appearances.

12. Since the Boston Blades began competing in 2010, its games have been made available for live streaming on the internet by the CWHL, which, in turn, has exposed the CWHL and the Boston Blades, including Opposer's Marks, to countries around the world. While viewership is highest in North America, the CWHL has seen significant and ever-increasing viewership from the United Kingdom, Russia, France, Germany, Australia, Sweden, Switzerland and Brazil. Boston Blades fans from around the world may access the live internet streams on the Boston Blades website by either entering through a link on the CWHL website or directly through the Boston Blades website, which is, again, directly owned, operated and controlled by the CWHL. Select Boston Blades games and special events that have included the team or its individual players, such as the annual All-Star game and the Clarkson Cup (the CWHL's version of the

NHL's Stanley Cup), have been televised throughout Canada on Rogers Sportsnet and TSN and within the United States on the National Hockey League Network (the NHL Network).

13. To be sure, the CWHL owns the licensing rights to the Boston Blades name and logo (as well as for the other four (4) CWHL teams) for use in any and all merchandising and broadcasting.

14. Consistent with the CWHL's centralized vision, any revenue generated by the Boston Blades from ticket sales, consumer apparel and/or sponsorship and fundraising activities remains the sole property of the CWHL. Any such revenue generated by the Boston Blades is then used by the CWHL to pay for basic travel and accommodations, ice rental, uniforms and equipment costs for all five (5) CWHL teams and operation of the league.

15. Applicant, Digit Murphy Enterprises, Inc., is a for-profit corporation organized and existing under the laws of the State of Rhode Island, with its principal place of business at 282 Wayland Place, Providence, Rhode Island.

16. Based upon information obtained from the Secretary of State of the State of Rhode Island, the President of Digit Murphy Enterprises, Inc. is Margaret "Digit" Murphy ("Ms. Murphy") and the Vice President of Digit Murphy Enterprises, Inc. is Aronda R. Kirby ("Ms. Kirby") (collectively, "Applicant's Principals").

17. Also based upon information obtained from the Secretary of State of the State of Rhode Island, the stated purpose of Digit Murphy Enterprises, Inc. is "to operate ice hockey camps and clinics."

18. Ms. Murphy was hired by the CWHL as Head Coach and General Manager of its Boston Blades team effective July 30, 2012. Ms. Kirby was hired by the CWHL as General Manager of its Boston Blades team effective May 20, 2013, with Ms. Murphy retaining her

previous position as Head Coach.

19. The CWHL Code of Conduct, which was executed at the time of hiring by both Ms. Murphy and Ms. Kirby, at Paragraph VIII, entitled: “Intellectual Property,” states:

The CWHL protects the ownership of its intellectual property as set forth in the CWHL Policies and Procedures Manual. In addition, you should contact CWHL’s Office regarding any anticipated use of intellectual property that does or may belong to someone else.

20. The Application submitted by Applicant seeks a trademark for the identical Opposer’s Design Mark used by the CWHL since November 30, 2010 (“Applicant’s Alleged Mark”).

21. The CWHL terminated the employment of Ms. Murphy and Ms. Kirby on April 10, 2015, as a result of issues involving professional conduct, as well as the intellectual property and trademark violations raised by Opposer in this Opposition.

22. Opposer is the owner of, and will rely herein upon, the following pending Federal Trademark Applications:

Trademark	Registration Number	Issue Date	Goods and Services
Word Mark: BOSTON BLADES	86570515	Pending	Entertainment in the nature of hockey games
Word Mark: BOSTON BLADES	86570515	Pending	Clothing products; namely, hockey apparel, including, T-shirts, sweatshirts, jerseys, and headgear/hats for consumers of all ages
Design Mark: BOSTON BLADES	86570564	Pending	Entertainment in the nature of hockey games
Design Mark: BOSTON BLADES	86570564	Pending	Clothing products; namely, hockey apparel, including, T-shirts, sweatshirts, jerseys, and headgear/hats for consumers of all ages

(“Opposer’s Pending Registration Marks”).

23. In addition to Opposer’s Pending Registration Marks, Opposer shall also rely upon its common law usage of Opposer’s Marks, as described in paragraphs 6 through 14 above.

COUNT ONE
Priority and Likelihood of Confusion
15 U.S.C. § 1052(d)

24. Plaintiff adopts and restates its allegations in all other paragraphs of this Notice of Opposition as though fully set forth herein.

25. Applicant filed Application Serial No.: 86415836 to register Applicant’s Alleged Mark with the United States Patent and Trademark Office (“USPTO”) on October 6, 2014 (“Applicant’s Filing Date”)

26. Applicant surreptitiously filed the Application without the knowledge or permission of the CWHL.

27. The Application filed by Applicant was based upon Applicant’s alleged use of the Alleged Mark in connection with Applicant’s “goods and services” on or before “20100000,” which should be interpreted as January 1, 2010 (“Applicant’s Alleged First Use Date”).

28. Applicant’s Alleged First Use Date predates the founding of the Boston Blades by Opposer on April 1, 2010 and the development of the team’s logo, Opposer’s Design Mark and now Applicant’s Alleged Mark, on November 30, 2010.

29. Applicant’s Alleged First Use Date predates any affiliation by Applicant’s Principals with the CWHL; namely, the CWHL’s hiring of them as employees on July 30, 2012 and May 20, 2013, respectively.

30. Approximately two (2) months after Applicant’s Filing Date, on December 4, 2014, Ms. Kirby requested, via email, that the CWHL approve the execution of Releases in favor of

ESPN to film the Boston Blades coaches and players, as well as to use the team's logo, for a documentary being produced about the 40th Anniversary of Title IX. A copy of the email from Ms. Murphy to the CWHL has been annexed hereto as Exhibit 1². This action taken by Ms. Kirby is an acknowledgement of the CWHL's ownership of Opposer's Marks and was required by paragraph VIII of the CWHL Code of Conduct; namely, that they were to "...contact CWHL's Office regarding any anticipated use of intellectual property that does or may belong to someone else."

31. In support of its Application, Applicant submitted a specimen of Applicant's Alleged Mark. A copy of the specimen submitted has been annexed hereto as Exhibit 2. The specimen consist of a "screen-shot" from the Boston Blades website, which is directly owned, operated and controlled by the CWHL. In the upper left-hand corner of the specimen is the website address, which states in relevant part: "cwhlboston_hockey.stats.pointstreak.com." Exhibit 2. Furthermore, in the upper right-hand corner of the specimen is the official logo of the CWHL. Exhibit 2. This specimen, submitted by Applicant itself, is further proof of the CWHL's prior ownership of the Applicant's Alleged Mark.

32. The inexactness of Applicant's Alleged First Use Date, "20100000," which inexplicably predates the founding of the Boston Blades and the development of the team's logo, Opposer's Design Mark and now Applicant's Alleged Mark, as well as Applicant's Principals' affiliations with the CWHL, is further proof of Opposer's ownership of Opposer's Marks and Applicant's lack of ownership of Applicant's Alleged Mark.

33. In the years prior to Applicant's Filing Date, Opposer has owned and continuously used Opposer's Marks in connection with its providing of entertainment in the nature of hockey

² Email addresses have been redacted for privacy reasons.

games to hockey enthusiasts in the United States, Canada and around the world, as well as in its providing consumer goods, including, but not limited to, clothing products; namely, hockey apparel, including, T-shirts, sweatshirts, jerseys, and headgear/hats for consumers of all ages in the United States, Canada and around the world.

34. Opposer has made substantial investments in advertising and promoting its goods and services, as well as building and obtaining good-will and brand recognition worldwide, under Opposer's Marks since their initial use dates, particularly in relation to its Boston team and its presence beyond Canada and within the United States. Opposer has extensively used, advertised, promoted and offered its good and services bearing Opposer's Marks to the public through various channels of communication and commerce, with the result that women's ice hockey enthusiasts throughout the world have come to know and recognize Opposer's Marks and associate same with Opposer and/or the goods and services provided by Opposer, including the Boston Blades name and logo.

35. As a result of the substantial investments in advertising and promoting its goods and services, as well as building and obtaining good-will and brand recognition worldwide, Opposer's Marks are famous and distinctive and became famous and distinctive well before Applicant's Principals became affiliated with the CWHL and Applicant's filing of its Application.

36. Applicant's Alleged Mark resembles Opposer's prior used Design Mark in every respect and, accordingly, is likely, when used in connection with the goods and services set forth in the Application, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

COUNT TWO
Priority and Likelihood of Dilution
15 U.S.C. § 1125(c)

37. Plaintiff adopts and restates its allegations in all other paragraphs of this Notice of Opposition as though fully set forth herein.

38. The Boston Blades expansion team was conceived of and founded on April 1, 2010 by the CWHL. Subsequently, the Boston Blades began competing in the CWHL during the 2010-2011 season.

39. Since its inception by the CWHL in 2010, the Boston Blades logo, Opposer's Design Mark and now Applicant's Alleged Mark, has been used continuously in connection with websites, equipment, merchandising, consumer apparel, print, television and internet advertising, in-game graphics for nationally televised (United States and Canada) and internationally streamed games, graphics used during sports reporting on local and national sports programs, press releases, news articles, periodical articles, television news, television sports programs, documentaries, social media, and associated with the CWHL's grassroots efforts to growth women's hockey by way of youth camps and clinics, as well as other community appearances.

40. Opposer's Marks are famous and well-known and became famous under 15 U.S.C. § 1125(c) well before Applicant's Principals became affiliated with the CWHL and Applicant's filing of its Application.

41. Per the Application, Applicant's Alleged First Use Date was "20100000." This date, however, predates the founding of the Boston Blades by the CWHL and the development of the team's logo, Opposer's Design Mark and now Applicant's Alleged Mark. Moreover, Applicant's Principals did not become affiliated with the CWHL until July 30, 2012 and May 20, 2013, respectively.

42. After Applicant's Principals became affiliated with the CWHL and approximately two (2) months after Applicant's Filing Date, on December 4, 2014, Ms. Kirby requested, via email, that the CWHL approve the execution of Releases in favor of ESPN to use the Boston Blades' logo for a documentary. Exhibit 1. Had Applicant's Principals believed that they had priority and were the rightful owners of the Boston Blades logo, Opposer's Design Mark and now Applicant's Alleged Mark, they would not have sought the CWHL's permission to use it, as required by paragraph VIII of the CWHL Code of Conduct; namely, that Ms. Kirby and Ms. Murphy were to "...contact CWHL's Office regarding any anticipated use of intellectual property that does or may belong to someone else."

43. In support of its Application, Applicant submitted a specimen of Applicant's Alleged Mark consisting of a "screen-shot" from the Boston Blades website, which is directly owned, operated and controlled by the CWHL. Exhibit 2. In the upper left-hand corner of the specimen is the website address, which states in relevant part: "cwhlboston_hockey.stats.pointstreak.com." Furthermore, in the upper right-hand corner of the specimen is the official logo of the CWHL. Exhibit 2.

44. Any revenue generated by the Boston Blades, including that revenue generated by Opposer's Marks, from ticket sales, consumer apparel and/or sponsorship and fundraising activities remain the sole property of the CWHL up to and including the present date.

45. Applicant's Alleged Mark resembles Opposer's prior used Design Mark in every respect and, accordingly, dilutes, or is likely to cause dilution of the distinctive quality of Opposer's Marks by blurring under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

COUNT THREE
Improper/Fraudulent Application Filing
15 U.S.C. § 1051(1)(a)

46. Plaintiff adopts and restates its allegations in all other paragraphs of this Notice of Opposition as though fully set forth herein.

47. A review of Applicant's Application reveals that the "Current Basis" for filing was "1A," which means it was filed as a "use-based" application. Such an application may only be filed if the applicant is currently using the mark in United States commerce.

48. Per the Application, Applicant's Alleged First Use Date was "20100000." This date, however, predates the founding of the Boston Blades by the CWHL and the development of the team's logo, Opposer's Design Mark and now Applicant's Alleged Mark. Moreover, Applicant's Principals did not become affiliated with the CWHL until July 30, 2012 and May 20, 2013, respectively.

49. After Applicant's Principals became affiliated with the CWHL and approximately two (2) months after Applicant's Filing Date, on December 4, 2014, Ms. Kirby requested, via email, that the CWHL approve the execution of Releases in favor of ESPN to use the Boston Blades' logo for a documentary. Exhibit 1. Had Applicant's Principals believed that they were the rightful owners of the Boston Blades logo, Opposer's Design Mark and now Applicant's Alleged Mark, they would not have sought the CWHL's permission to use it, as required by paragraph VIII of the CWHL Code of Conduct; namely, that Ms. Kirby and Ms. Murphy were to "...contact CWHL's Office regarding any anticipated use of intellectual property that does or may belong to someone else."

50. In support of its Application, Applicant submitted a specimen of Applicant's Alleged Mark consisting of a "screen-shot" from the Boston Blades website, which is directly

owned, operated and controlled by the CWHL. Exhibit 2. In the upper left-hand corner of the specimen is the website address, which states in relevant part: “cwhlboston_hockey.stats.pointstreak.com.” Furthermore, in the upper right-hand corner of the specimen is the official logo of the CWHL. Exhibit 2.

51. Any revenue generated by the Boston Blades, including that revenue generated by Opposer’s Marks, from ticket sales, consumer apparel and/or sponsorship and fundraising activities remain the sole property of the CWHL up to and including the present date.

52. Upon information and belief, Applicant has no intention to actually use Applicant’s Alleged Mark. On or about March 26, 2015, the National Women’s Hockey League (“NWHL”) announced publically that it was set to begin operations during the spring of 2015 and will be comprised of four (4) competing women’s hockey teams in the United States: one in Boston, Massachusetts (the “Boston Pride”); one in Buffalo, New York (the “Buffalo Beauts”); one on Stamford, Connecticut (the “Connecticut Whale”); and one in East Meadow, New York (the “New York Riveters”).

53. Relevant to this Opposition, the NWHL’s proposed Boston team will be called the “Boston Pride.” A trademark application, bearing application serial no.: 86521150 for the name “Boston Pride” was submitted on February 2, 2015, by the law firm of Natter & Natter, on behalf of “NWHL, LLC.” A copy of the USPTO Trademark Status and Document Retrieval has been annexed hereto as Exhibit 3.

54. Notably, the law firm of Natter & Natter was also retained by Applicant to file the Application being opposed herein. Thus, the NWHL and Applicant have used the same New York-based law firm in order to file trademarks both for the NWHL and against the CWHL.

55. Upon information and belief, Ms. Murphy was, at some point in time, to be named Commissioner of the NWHL.

56. Since the NWHL has already released press materials identifying its Boston Pride team and in light of Ms. Murphy's past involvement with the NWHL, it is alleged that the actual purpose of Applicant's Application was to obtain the trademark to the "Boston Blades" in an attempt to foreclose the CWHL's ability to operate a team in Boston, Massachusetts – its only team in the United States and outside of Canada – and destroy the market share and good-will the CWHL has achieved for women's hockey in the United States, particularly in Boston, Massachusetts.

57. The surreptitious application for the Boston Blades trademark, together with Ms. Murphy's past behind-the-scenes dealings with the NWHL, and the use of the same law firm to file the Application as the NWHL, all tend to point to Applicant's true intentions behind its Application.

58. For all of these reasons, Applicant has improperly and fraudulently filed its Application as a "use-based" application, in violation of 15 U.S.C. § 1051(a)(1).

COUNT FOUR
Improper/Fraudulent Application Filing
15 U.S.C. § 1051(3)(A)

59. Plaintiff adopts and restates its allegations in all other paragraphs of this Notice of Opposition as though fully set forth herein.

60. Pursuant to 15 U.S.C. § 1051(3)(A), an application for use of a trademark must be accompanied by a verified statement by the applicant that: "the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered."

61. Per the Application, Applicant has stated that Applicant's Alleged First Use Date was "20100000." This date, however, predates the founding of the Boston Blades by the CWHL and the development of the team's logo, Opposer's Design Mark and now Applicant's Alleged Mark. Moreover, Applicant's Principals did not become affiliated with the CWHL until July 30, 2012 and May 20, 2013, respectively.

62. After Applicant's Principals became affiliated with the CWHL and approximately two (2) months after Applicant's Filing Date, on December 4, 2014, Ms. Kirby requested, via email, that the CWHL approve the execution of Releases in favor of ESPN to use the Boston Blades' logo for a documentary. Exhibit 1. Had Applicant's Principals believed that they were the rightful owners of the Design Mark, they would not have sought the CWHL's permission to use it, as required by paragraph VIII of the CWHL Code of Conduct; namely, that Ms. Kirby and Ms. Murphy were to "...contact CWHL's Office regarding any anticipated use of intellectual property that does or may belong to someone else." If Applicant was, in fact, the owner of the Design Mark, then such permission would not have been requested.

63. In support of its Application, Applicant submitted a specimen of Applicant's Alleged Mark consisting of a "screen-shot" from the Boston Blades website, which is directly owned, operated and controlled by the CWHL. Exhibit 2. In the upper left-hand corner of the specimen is the website address, which states in relevant part: "cwhlboston_hockey.stats.pointstreak.com." Exhibit 2. Moreover, in the upper right-hand corner of the specimen is the official logo of the CWHL. Exhibit 2. If Applicant was, in fact, the owner of the Boston Blades logo, Opposer's Design Mark and Applicant's Alleged Mark, then it would not have included a specimen that contained the CWHL website and CWHL official logo. To be

sure, no license agreement has ever been proposed, presented or agreed upon by and between the CWHL and Applicant.

64. Any revenue generated by the Boston Blades, including that revenue generated by Opposer's Marks, from ticket sales, consumer apparel and/or sponsorship and fundraising activities remain the sole property of the CWHL up to and including the present date. If Applicant was, in fact, the owner of the Boston Blades logo, then the CWHL would not be permitted to solely benefit from it.

65. For all of these reasons, Applicant has improperly and fraudulently filed its Application based upon a statement by Applicant that it was/is the owner of the mark sought to be registered, in violation of Section 3(A) of the Lanham Act, 15 U.S.C. § 1051.

COUNT FIVE
Improper/Fraudulent Application Filing
15 U.S.C. § 1051(3)(B)

66. Plaintiff adopts and restates its allegations in all other paragraphs of this Notice of Opposition as though fully set forth herein.

67. Pursuant to 15 U.S.C. § 1051(3)(B), an application for use of a trademark must be accompanied by a verified statement by the applicant that: "to the best of the verifier's knowledge and belief, the facts recited in the application are accurate."

68. Per the Application, Applicant has stated that Applicant's Alleged First Use Date was "20100000." This date, however, predates the founding of the Boston Blades by the CWHL and the development of the team's Design Mark. Moreover, Applicant's Principals did not become affiliated with the CWHL until July 30, 2012 and May 20, 2013, respectively.

69. Per the USPTO application requirements and 15 U.S.C. § 1051(1)(a), an applicant may not file a "use-based" application, unless an Applicant is currently using the mark in United

States commerce; however, Applicant is not and has not been currently using Applicant's Alleged Mark. Instead, Applicant's Alleged Mark is and has been the sole intellectual property of the CWHL, as evidenced by Applicant's Alleged First Use Date, Applicant's Principals previously seeking permission for Releases to use the Boston Blades' logo, the CWHL's website and logo contained on Applicant's specimen, and the fact that the CWHL has retained all revenue generated by the Boston Blades, including that revenue generated by Opposer's Marks, from ticket sales, consumer apparel and/or sponsorship and fundraising activities.

70. Applicant has no intention to actually use Applicant's Alleged Mark. In light of Applicant's surreptitious application for the Boston Blades trademark, Ms. Murphy's past behind-the-scenes dealings with the NWHL (which is committed to placing a team in Boston, Massachusetts), and the use of the same law firm to file the Application and the NWHL's application for the name "Boston Pride" (Exhibit 3), it seems clear that Applicant is seeking to obtain the trademark to the "Boston Blades" in an attempt to foreclose the CWHL's ability to operate a team in Boston, Massachusetts – its only team in the United States and outside of Canada – and destroy the market share and good-will the CWHL has achieved for women's hockey in the United States, particularly in Boston, Massachusetts.

71. For all of the foregoing reasons, Applicant has improperly and fraudulently filed its Application based upon a statement by Applicant that the facts recited in the Application were accurate, in violation of Section 3(B) of the Lanham Act, 15 U.S.C. § 1051.

COUNT SIX
Improper/Fraudulent Application Filing
15 U.S.C. § 1051(3)(D)

72. Plaintiff adopts and restates its allegations in all other paragraphs of this Notice of Opposition as though fully set forth herein.

73. Pursuant to 15 U.S.C. § 1051(3)(D), an application for use of a trademark must be accompanied by a verified statement by the applicant that: “to the best of the verifier’s knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceived...”

74. Applicant did not claim concurrent use in its Application.

75. Per the Application, Applicant has stated that Applicant’s Alleged First Use Date was “20100000.” This date, however, predates the founding of the Boston Blades by the CWHL and the development of the team’s Design Mark. Moreover, Applicant’s Principals did not become affiliated with the CWHL until July 30, 2012 and May 20, 2013, respectively.

76. After Applicant’s Principals became affiliated with the CWHL and approximately two (2) months after Applicant’s Filing Date, on December 4, 2014, Ms. Kirby requested, via email, that the CWHL approve the execution of Releases in favor of ESPN to use the Boston Blades’ logo for a documentary. Exhibit 1. Had Applicant’s Principals believed that they were the rightful owners of the Design Mark, they would not have sought the CWHL’s permission to use it, as required by paragraph VIII of the CWHL Code of Conduct; namely, that Ms. Kirby and Ms. Murphy were to “...contact CWHL’s Office regarding any anticipated use of intellectual property that does or may belong to someone else.”

77. In support of its Application, Applicant submitted a specimen of Applicant’s Alleged Mark consisting of a “screen-shot” from the Boston Blades website, which is directly owned, operated and controlled by the CWHL. Exhibit 2. In the upper left-hand corner of the specimen is the website address, which states in relevant part:

“cwhlboston_hockey.stats.pointstreak.com.” Exhibit 2. Moreover, in the upper right-hand corner of the specimen is the official logo of the CWHL. Exhibit 2.

78. Any revenue generated by the Boston Blades, including that revenue generated by Opposer’s Marks, from ticket sales, consumer apparel and/or sponsorship and fundraising activities remain the sole property of the CWHL up to and including the present date.

79. For all of these reasons, Applicant has improperly and fraudulently filed its Application based upon a statement by Applicant that no other person has/had the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto, in violation of Section 3(D) of the Lanham Act, 15 U.S.C. § 1051.

WHEREFORE, Opposer believes that it will be damaged by registration of the trademark shown in Application Serial No.: 86415836 and respectfully requests that the Opposition be sustained and that registration to Applicant be refused.

The filing fee in the amount of \$300.00 is being transmitted electronically with this submission.

Dated the 10th day of April, 2015.

Respectfully submitted,

s/ Michael D. Drews
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Attorneys for Opposer
*Canadian Association for the Advancement
of Amateur Women’s Hockey d/b/a Canadian*

*Women's Hockey League (CWHL) and
Canadian Women's Hockey League, LLC
d/b/a CWHL*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 10, 2015 a true and correct copy of the foregoing NOTICE OF OPPOSITION was filed and served via United States Mail, postage prepaid:

Natter & Natter
501 5th Avenue
New York, New York 10017

s/ Andrea Davis
Paralegal

Subject: FW: Release forms for Blades logo team members
Attachments: Individual Release (Mundo Films) 041414.pdf; Materials Release (Mundo Films) 041414.doc

From: Aronda Kirby [mailto:]
Sent: December-04-14 3:22 PM
To: Brenda
Subject: Fwd: Release forms for Blades logo team members

Hi Brenda

ESPN is shooting Hilary and Digit this weekend for a documentary on the 40th anniversary of Title IX. They need each of the players in our Sat. game to sign a release in case that player ends up on the film, as well as using the teams logos. These are the forms they need signed.

Aronda

----- Forwarded message -----

From: Liz Kuriakose < >
Date: Wed, Dec 3, 2014 at 11:09 PM
Subject: Release forms for Blades logo team members
To: Digit Murphy < >, " " < >
Cc: Raymond Lisi < >, Nadine Mundo < >, Rena Croshere < >

Hi Ladies,

Please see attached 2 release forms. One is the appearance release that I would need all the team members to sign. The second is the materials release for the Boston Blades branding/logo.

Please have all the team members sign the form and our production assistant, Raymond Lisi, will collect them before practice tomorrow.

Aronda, can you sign the materials release for the Blades logo and send it back to me when you have a chance?

Every member of the Calgary Inferno should sign the individual release as well. I will also need their logo release. Let me know if you want me to contact their GM.

Thank you both!

Liz

Elizabeth Kuriakose | Coordinating Producer
|
Mobile:

--



Aronda Kirby, GM
The Boston Blades



Spam

Not spam

Forget previous vote

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Stats

Teams

CWHL 2014/2015

- Choose a Page -

View team stats

B

State

Roster

Schedule


Transactions

View another team

Boston Blades

GN	AWAY	HOME	DATE	TIME	SCORE	BOXSCORE	GS
	Boston Blades	Montreal Stars	Sat, Oct 18	6:00 PM		Desmarreau Rink	
	Toronto Furies	Boston Blades	Sat, Nov 15	6:30 PM		UMASS - Boston	
	Toronto Furies	Boston Blades	Sun, Nov 16	12:30 PM		UMASS - Boston	
	Montreal Stars	Boston Blades	Sat, Nov 22	8:00 PM		UMASS - Boston	
	Montreal Stars	Boston Blades	Sun, Nov 23	2:00 PM		UMASS - Boston	
	Brampton Thunder	Boston Blades	Sat, Nov 29	7:30 PM		UMASS - Boston	
	Brampton Thunder	Boston Blades	Sun, Nov 30	12:30 PM		UMASS - Boston	
	Calgary Inferno	Boston Blades	Fri, Dec 05	7:30 PM		Ristuccia	
	Calgary Inferno	Boston Blades	Sat, Dec 06	7:30 PM		UMASS - Boston	
	Calgary Inferno	Boston Blades	Sun, Dec 07	12:30 PM		UMASS - Boston	
	Boston Blades	Toronto Furies	Sat, Dec 20	7:30 PM		Mastercard Ctr	
	Boston Blades	Toronto Furies	Sun, Dec 21	12:45 PM		Mastercard Ctr	
	Boston Blades	Brampton Thunder	Sat, Jan 17	6:50 PM		Century Gardens	
	Boston Blades	Brampton Thunder	Sun, Jan 18	2:05 PM		Century Gardens	
	Montreal Stars	Boston Blades	Sat, Jan 24	7:30 PM		Northford	
	Boston Blades	Toronto Furies	Sat, Jan 31	7:30 PM		Mastercard Ctr	
	Boston Blades	Toronto Furies	Sun, Feb 01	12:45 PM		Mastercard Ctr	
	Boston Blades	Calgary Inferno	Fri, Feb 13	7:30 PM		Winsport	
	Boston Blades	Calgary Inferno	Sat, Feb 14	1:00 PM		Winsport	
	Boston Blades	Calgary Inferno	Sun, Feb 15	9:00 AM		Winsport	
	Brampton Thunder	Boston Blades	Sat, Feb 21	7:10 PM		Milton Academy	
	Brampton Thunder	Boston Blades	Sun, Feb 22	12:30 PM		UMASS - Boston	
	Boston Blades	Montreal Stars	Sat, Feb 28	6:00 PM		Desmarreau Rink	
	Boston Blades	Montreal Stars	Sun, Mar 01	1:00 PM		Desmarreau Rink	

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STATUS

DOCUMENTS

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Generated on: This page was generated by TSDR on 2015-03-18 18:54:38 EDT**Mark:** BOSTON PRIDE**BOSTON PRIDE****US Serial Number:** 86521150**Application Filing Date:** Feb. 02, 2011**Filed as TEAS Plus:** Yes**Currently TEAS Plus:** Yes**Register:** Principal**Mark Type:** Service Mark**Status:** New application will be assigned to an examining attorney approximately 3 months after filing date**Status Date:** Feb. 11, 2015**▼ Mark Information**[▲ Collapse All](#)**Mark Literal Elements:** BOSTON PRIDE**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK**▼ Goods and Services****Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Entertainment in the nature of hockey games**International Class(es):** 041 - Primary Class**U.S Class(es):** 100, 101, 102**Class Status:** ACTIVE**Basis:** 1(b)**▼ Basis Information (Case Level)****Filed Use:** No**Currently Use:** No**Filed ITU:** Yes**Currently ITU:** Yes**Filed 44D:** No**Currently 44D:** No**Filed 44E:** No**Currently 44E:** No**Filed 66A:** No**Currently 66A:** No**EXHIBIT 3**

Filed No Basis: No

Currently No Basis: No

▼ Current Owner(s) Information

Owner Name: NWHL LLC

Owner Address: c/o Natter & Natter, 501 Fifth Avenue
New York, NEW YORK 10017
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized: DELAWARE

▼ Attorney/Correspondence Information

Attorney of Record

Attorney Name: Benjamin Natter

Attorney Primary Email b.natter@natter-natter.com
Address:

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: BENJAMIN NATTER
Natter & Natter
501 5th Ave
New York, NEW YORK 10017-6107
UNITED STATES

Correspondent e-mail: b.natter@natter-natter.com docket@natter-natter.com

Correspondent e-mail
Authorized: Yes

Domestic Representative - Not Found

▼ Prosecution History

Date	Description	Proceeding Number
Feb. 11, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 05, 2015	NEW APPLICATION ENTERED IN TRAM	

▼ TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: NEW APPLICATION PROCESSING

Date in Location: Feb. 11, 2015

▼ Assignment Abstract Of Title Information - Click to Load

▼ Proceedings - Click to Load

EXHIBIT 3

EXHIBIT 3